

Questions & Answers Regarding INDOT's New Consultant Agreement Process

(From July 8, 2005, meeting with registered firms.)

Agreements

1. What will be the required levels of professional liability insurance?

Answer: The required levels of professional liability insurance have not been determined yet.

2. Unless the selections are staggered after each RFP, 7 days from selection to scoping meeting seems very tight if there are a large number of projects on the RFP.?

Answer: Seven days are allowed to schedule the scope of services meeting. The meeting will be held within 21 calendar days after scheduling it.

3. What time might be expected from final negotiation to notice to proceed?

Answer: Under the current signature process, the estimated time is required is a maximum of 88 calendar days. The time would decrease for many agreements under a planned form approval process. The goal is 14 calendar days.

4. Does INDOT intend to publish consultant negotiated awards/agreement fees?

Answer: Yes, the final approved agreements will be available for viewing.

5. Why eliminate lump sum agreements & instead reward high overheads & less efficient workers?

Answer: INDOT is planning to use all types of agreements, including some lump sum agreements, depending on the scope of work. Lump sum agreements are suitable for a well defined scope of work and level of effort. Future project design agreements are expected to include alternative analysis and alternative selection in addition to preliminary design. Lump sum is typically not a good method of compensation in this circumstance.

6. What is status of existing open end agreements? Will they proceed or will all these agreements be void?

Answer: These agreements are being evaluated on a case-by-case basis. You should expect on-going agreements to continue unless you are notified otherwise.

7. What is the range of fixed fee?

Answer: We are examining this issue in light of federal guidance and in light of practice in other states.

Audit

8. What is an “acceptable / auditable accounting system”? We use QuickBooks for our record keeping. Is this acceptable? What other accounting systems are permitted? Do we need a certified audit?

Answer: Any accounting system which adequately separates, allocates, and accumulates costs for governmental contracts would be acceptable. One feature of an acceptable accounting system is the ability to produce a supportable job cost report.

Firms seeking agreements equal to or greater than \$250k are required to obtain an audit certified to have been performed to 48 CFR, Part 31 and State and Agency regulations and policies by December 30th, 2005 for the firm’s fiscal year 2004, and must submit Part 2 of the Prequalification Questionnaire and the documents required for Self Certification by September 19th.

9. What do you mean by “CPA Certified”? We have not been audited by INDOT in the past. We have submitted yearly overhead rates, which were prepared by our accountant. Our accountant followed the guidelines that were posted on the web site, and discussed any questions that he had with Tom Becher in accounting. Does our accountant need some special certification from INDOT or FHWA? What accounting firms are currently certified?

Answer: In order for a CPA to be qualified, they must meet the GAO yellowbook standards. Audit is currently revising our web site for the new prequalification requirements. The new site will provide various hot links to regulations and forms including the Government Auditing Standards (yellowbook). Generally, a CPA firm qualified to perform A-133 audits, with a current license, peer review and 24 CPE hours in subjects directly related to governmental auditing, or our specific industry will qualify. The CPA is certifying they perform the audit to generally accepted government auditing standards, 48 CFR, Part 31 and State and Agency regulations and policies. ACEC may be able to help identify some of the CPA firms interested in your audit.

INDOT has decided not to endorse specific CPA firms. Audit has issued letters of concurrence to five consultants based on certified indirect cost schedules submitted by their CPAs. After receipt of the CPA report, INDOT staff arranges an engagement to review the CPA’s work papers, or a copy of the CPA’s work papers shall be submitted with the report. Following the review,

INDOT may have some questions or require additional support in order to issue a letter of concurrence to the consultant.

10. Status of existing overhead audits, are they going to be completed by INDOT?

Answer: Audit's immediate focus is on processing the financials for prequalification in order to get as many consultants prequalified as possible. However, we are looking for the best practices to process the backlog of audits. Several strategies are being considered and some procedures may require consultant cooperation to be successful. Note: ALL fiscal year 2004 overheads need to be submitted through the new prequalification requirements.

11. Regarding audit due date being 6 months after fiscal year end: For 2005 & later will extensions be granted? If no, will penalties be assessed?

Answer: Extensions to the due date for submittal of certified overhead schedules will not be approved. When an overhead submittal is past due the prequalification will be invalid and the consultant will be ineligible for selection until a certified overhead schedule is received and deemed allowable by INDOT External Audit.

12. Must CPA – certified audits be submitted annually?

Answer: Yes, in order to maintain prequalification, firms will be required to submit certified overhead schedules within 6 months of the close of each company's fiscal year.

DBE / Legal

13. What are INDOT's goals for DBE etc. involvement?

Answer: INDOT has an overall agency DBE goal that is computed and set each year based on estimated capacity. INDOT's overall DBE goal for this year will be approximately 9.5%. Also, MBE and WBE goals specific to professional services have been set for Indiana, they are 7% for MBE and 10% for WBE.

14. Will a firm's proposal be ranked on DBE participation?

Answer: Proposals will not be ranked based on DBE participation. While DBE goals may be assigned to proposals, selection scoring/ranking will be based only upon our qualifications based selection rating system.

15. If a firm does not include a DBE, when there is a goal, will the firm's proposal be thrown out as being non-responsive?

Answer: When a DBE or MBE or WBE goal is set for advertised services the proposal will have to include identification of certified subconsultants to meet the goal or documentation of good faith efforts to meet the goal. If good faith efforts are not sufficiently documented the proposal will be thrown out as non-responsive.

Good faith efforts are identifying subcontracting opportunities in an agreement and then documenting the active and aggressive measures taken by a prime to contact, follow up with and negotiate with all ready, willing and able certified DBE's. The Indiana DBE program requirements may be found at <http://www.state.in.us/dot/business/consultants/index.html> .

16. To be considered an "Indiana" firm, may a consultant have a branch office in the state or must it be a headquarters?

Answer: The definition of an "Indiana Firm" may be found at <http://www.BuyIndiana.IN.gov> .

17. Has the boiler plate agreement been reviewed by an errors & omissions company?

Answer: No.

18. Will there be any opportunity to negotiate terms within the boiler plate agreement?

Answer: INDOT's desire is to obtain form approval from the Attorney General's office for the standard terms and conditions of our agreements to enable a reduction in processing time. Once form approval is obtained the terms will not be negotiable.

Development Process

19. Will INDOT consider eliminating consultant submittal reviews by other consultants? Designers feel isolated and not a part of the INDOT team by dealing with the third party. Please consider taking ownership of reviewing submittals in-house. This will improve the team/partnering relationship between owner (INDOT) and designer (consultant).

Answer: All consultant services agreements and projects will have INDOT project managers. Consultant technical plan review may still be used to assist our project managers.

20. Will INDOT require use of ODOT Vol I, II, III & design standards?

Answer: INDOT will continue maintaining / developing the current Indiana Design Manual (IDM) for the indefinite future. The new TopDOT structure will allow the focus area (road, bridge, traffic) to be responsible for their portion of the manual and appropriate standards. The primary revisions to the IDM in the short term will be focused on the project development process.

21. Is there a dollar amount limit for projects managed by the districts vs. Central office?

Answer: No, the division of project responsibility is not based on cost. The central office will handle all expansion projects and the districts will manage the rest.

22. Will District Design be required to meet a common standard? I thought that operation funded contracts are designed with exception to design standards.

Answer: All INDOT projects, regardless of their size, complexity and who develops them, will be held to predetermined quality assurance standards.

23. Will INDOT consider a new submittal process? Fewer – submittals

Answer: INDOT is currently reviewing the submittal process and is considering a reduction to three design submittal milestones (30%, 60%, 90%).

24. Will INDOT reevaluate milestone percentages as they are out of date and inaccurate?

Answer: The milestones and milestone percentages will be updated to coincide with a reduction in submittals.

25. Will there be less emphasis on producing engineering assessment reports?

Answer: The process being created is for INDOT to develop pre-scope reports defining the project need, end points etc. and then allow the designer to analyze the alternatives and participate in defining the selected alternative.

26. Will INDOT have a Project Manager assigned to each consultant designed project?

Answer: Yes.

27. Will INDOT move toward mandatory proprietary civil design/CADD packages for consultants' submittals? i.e., AutoCad vs. MicroStation, or Moss vs. Geopak vs. Eagle point, etc.

Answer: Use of specific cadd software will be required. Decisions on specific programs and dates for implementation are being considered.

28. What specific responsibilities will be shifted from Central Office to the Districts?

Answer: The districts will be responsible for many functions including consultant selection / agreement administration, project management, project review, environmental document preparation, R/W engineering, survey, railroad and utility coordination, etc. Project management and administration of expansion projects will remain in the central office.

29. What do you mean by preservation projects?

Answer: Preservation projects are those which enhance and perpetuate the serviceability of the existing roadway or bridge. A wide range of project types are included. All spot improvements (bridge replacements, intersection improvements, sight distance, etc.) are included. Linear projects of all types include partial 3R, 3R/4R projects.

30. Are there going to be any changes to streamline R/W acquisitions?

Answer: Yes, within our capacity. Items outside our ability to control will require legislative actions which are being identified for proposal to the legislature.

Negotiation

31. How much time have you budgeted for allowing consultant time to review project materials/reports? (Time between official selection & scoping meeting)

Answer: Available materials can be reviewed during the 14 day advertisement period and prior to the scope of services meeting.

32. Does INDOT plan to negotiate man-hours or cost?

Answer: The purpose of the negotiations is to arrive at a fair and reasonable terms for services. Man-hours and costs will both be considered in negotiations.

Performance Evaluation

33. Will consultant agreements for construction inspection be evaluated?

Answer: Yes. Performance evaluations will be performed on all consultant services.

34. Will the past performance of sub consultants be taken into account? Likewise, will a prime's performance as a sub consultant be considered in evaluating that firm's performance?

Answer: Yes. Performance data will be collected and used for both prime and sub-consultants.

Prequalification

35. Will ODOT training be allowed to count toward prequalification with INDOT?

Answer: Only if the training meets INDOT training requirements as prescribed in the Prequalification Manual.

36. Will there be response time estimates (by INDOT) to submitted financial and technical prequalifications? (How soon would we know after submittal that we have been prequalified?)

Answer: Consultants will be notified regarding approval of prequalification within 14 calendar days of receipt.

37. Will existing INDOT vendors be required to go through the prequalification process and if so, will there be required training as ODOT does?

Answer: All consultants and subconsultants will have to be prequalified to do business with INDOT. Special INDOT training will not typically be a requirement for prequalification at this point.

38. Is the process for the prequalification the same for both initial prequalification versus future additional prequalification for "expanding" companies that add additional work hours?

Answer: Yes.

39. How many prequalification categories are anticipated?

Answer: Over 40.

Retainage

40. What is the purpose of the 10% retainage?

Answer: The purpose of the retainage is to focus attention on delivering a quality project on time and within budget.

41. When will the retainage be released?

Answer: Recovery of retainage will occur with completion of a phase of the agreement. Recovery will be expedited and is anticipated to be within 90 days of submittal of deliverables.

Selection

42. After RFP selections have been posted, will consultant selection rating be made available for review & discussion w/ INDOT selection committee or district?

Answer: The mechanism for discussion with INDOT has not been finalized, but the ratings will be available to consultants on an individual company basis.

43. Who is on the Central office selection committee?

Answer: This has not been determined yet, but shall be posted in the near future.

44. Are pending supplemental agreements considered “unresolved agreement disputes” on the selection rating form? What is definition of an agreement dispute? Please give examples.

Answer: Agreement disputes might include unresolved supplemental agreement negotiations, unresolved agreement closeout matters, unresolved errors or omissions claims, disagreements regarding fulfillment of services or any other dispute regarding fulfillment of agreement terms.

45. Will there be a follow-up process to evaluate the new selection process? ... how will this be modified if the process doesn't work exactly as anticipated?

Answer: INDOT will continuously review the process for improvement. Any changes in scoring for selection will be published prior to RFP advertisements.

46. What will be INDOT's process of selecting firms to provide construction inspection and geotechnical engineering services?

Answer: The selection process for all professional services will be the same.

47. Will INDOT continue to select several prequalified firms for a two-year duration to perform all the geotechnical work? If so, how many?

Answer: A long term decision has not been made regarding how this will be acquired. For now, most of the work will continue to be done via unit price as needed services agreements. We plan to include advertisement for several such agreements on our August RFP.

48. Will a pre-qualified geotechnical engineering firm be able to team with an A/E firm and, if selected, perform the geotechnical portion of the project?

Answer: This would be possible in cases where geotechnical services are included in the description listed in the RFP.

49. Will we be able to submit RFP's & technical proposals electronically? This will help save time & money for INDOT, too.

Answer: INDOT desires is to implement systems allowing use of electronic submittals.

50. Does 200% of payroll include all individuals in a firm, or just transportation technical?

Answer: We will use 200% of total firm wages and salaries as a selection cap for annual services. To attempt to apply this to just transportation technical staff is not realistic because it would be unverifiable. This is not an estimated capacity limitation, but an objectively verifiable limitation that assists us in not over assigning work in selections and encourages firms to diversify their business clientele. Also, INDOT is currently considering a definition regarding practical application of this capacity rating.

51. With "Documented Performance" becoming a major factor in the selection process, how will this criteria be measured for consultants that have not previously done work for INDOT?

Answer: We will collect and use performance data from all state and local federal aid work. For firms without INDOT performance data we will consider performance data from other states, from non-federal-aid local work and from other documented sources.

52. Will LPA's follow INDOT selection procedures? Will INDOT or LPA make selection on LPA projects?

Answer: LPA project selections will follow the same process as for INDOT selections, with appropriate LPA participation.

53. Will meeting with the project staff prior to selection meetings be encouraged or allowed?

Answer: Consultant meetings regarding marketing or specific to advertised services will not be allowed during the decision making process. Policy regarding meetings with project staff at other time periods has not been determined.

Miscellaneous

54. Will the PowerPoint be available on the website?

The PowerPoint presentation presented at the July 8 meeting is available at <http://www.state.in.us/dot/business/consultants/index.html> .

55. What services will be brought "in house" that are currently performed by consultants? If any, when will these changes occur?

Answer: INDOT is in the process of restructuring. Part of this process is to evaluate the competencies that a department of transportation should have and realign the agency with these functions.

56. With the new structure, do you foresee consultant services needs decreasing, remaining the same or increasing?

Answer: Decisions to use consultant services are being made using a business-case decision making process. While the mix of services may change, the percentage of budget dollars spent on consultant services is expected to be stable.

57. Do the new procedures pertain to R/W engineering agreements? If so, will each individual project require its own agreement?

Answer: The new procedures will apply to all consultant services agreements. Some consultant agreements, such as open-end agreements, may include multiple project assignments.

58. What is anticipated annual consultant budget over next few years? (Range?, i.e. \$80 – 100 m)

Answer: The currently planned range is \$75,000,000 to 85,000,000.

59. There's a lot of talk about scoring consultants – do you plan to institute any elements of a 360 review process such that consultants can evaluate INDOT as a client? Where's the accountability for INDOT's behavior on agreements? Deadlines are often missed due to decisions or lack there of at INDOT.

Answer: INDOT is interested in 360° feedback. Formal methods of soliciting this feedback on a periodic basis will be explored.

60. What is status of current (posted) PSB's i.e. I-80/94 will these be pulled & re-posted as RFP's?

Answer: INDOT has initiated a funded 10 year planning process due to be completed in September. A final decision regarding the status of PSB's for which selections have not been made will be announced after the 10 year plan is finalized.

61. Will you accept comments on your "draft" manuals & procedures?

Answer: Yes.